



SACHI A. HAMAI  
Chief Executive Officer

## County of Los Angeles CHIEF EXECUTIVE OFFICE

Kenneth Hahn Hall of Administration  
500 West Temple Street, Room 713, Los Angeles, California 90012  
(213) 974-1101  
<http://ceo.lacounty.gov>

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To: Supervisor Hilda L. Solis, Chair  
Supervisor Mark Ridley-Thomas  
Supervisor Sheila Kuehl  
Supervisor Don Knabe  
Supervisor Michael D. Antonovich

From: Sachi A. Hamai  
Chief Executive Officer

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### **SACRAMENTO UPDATE - MEDICAL MARIJUANA LEGISLATION**

#### **Executive Summary**

This memorandum contains a report on 11 measures related to medical marijuana that are currently pending in the State Legislature.

#### **Background**

In 1996, California voters approved Proposition 215, the Compassionate Use Act, which legalized medical marijuana for patients and their primary caregivers to obtain, use, and cultivate medical marijuana for personal use, and sanctioned prescribing physicians. In addition, SB 420 (Chapter 875, Statutes of 2003) clarified the scope of the application of the Compassionate Use Act and established a statewide voluntary medical marijuana identification card program administered by the local health officer who issues identification cards to eligible patients and their primary caregivers, among other provisions.

On October 9, 2015, Governor Brown signed the Medical Marijuana Regulation and Safety Act (Chapters 688, 689, and 719, Statutes of 2015), a statewide comprehensive framework to regulate the licensing and enforcement of commercial medical marijuana. This Act, which became effective January 1, 2016, is administered by the newly created Bureau of Medical Marijuana Regulations within the California Department of Consumer Affairs, with support from various State agencies.

This year, several measures were introduced to further refine the Act, related to overall cleanup language, cash collection for tax remittance, temporary tax amnesty, research, and implementation of an apprentice program, among others. These bills are described below.

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### **Medical Marijuana Legislation**

**AB 26 (Jones-Sawyer)**, which as amended on June 23, 2016, would require State license applicants with 20 or more employees to implement an employee training program, effective July 1, 2018. The training would include applicable statutory requirements, industry best practices, occupational health and safety standards, and workplace protections. The bill also eliminates the availability of conditional licenses. This measure is pending a hearing in the Senate Appropriations Committee.

**AB 567 (Gipson)**, which as amended on June 15, 2016, would establish two mandatory tax amnesty programs for medical cannabis businesses and employers who have been noncompliant with filing State tax liabilities due to the fear of being federally prosecuted. All eligible participants would need to apply to the California Board of Equalization (BOE) to participate in these amnesty programs for employment tax, and sales and use tax. The tax amnesty programs would run from July 1, 2017 through September 30, 2017, for all tax reporting periods beginning before January 1, 2015. Penalties and criminal actions for noncompliance would be waived for all qualified and participating taxpayers. In addition, the bill would allow qualified participants to pay for due taxes in installment payments in lieu of full payment. This measure is scheduled to be heard by the Senate Appropriations Committee on August 1, 2016.

**AB 821 (Gipson)**, which as amended on January 13, 2016, would temporarily allow, until January 1, 2022, medical marijuana dispensaries to remit sales tax collections to the BOE by a means other than electronic funds transfer. This measure is currently pending on the Senate Floor.

**AB 1575 (Bonta)**, which as amended on June 22, 2016, would: 1) rename the Medical Marijuana Regulation and Safety Act enacted last year as the Medical Cannabis Regulation and Safety Act; 2) provide various cleanup provisions, including further clarification of the roles of various State regulatory agencies; 3) establish an advisory committee to improve the industry's ability to comply with Federal law and regulations that would allow improved access to banking services; and 4) propose statewide uniform packaging requirements for all medical marijuana products. This measure is scheduled to be heard by the Senate Appropriations Committee on August 1, 2016.

**AB 2149 (Bonilla)**, which as amended on June 22, 2016, would authorize the BOE and counties to administer and collect cash payments for any fee, fine, penalty, tax or other charge payable by a medical marijuana business on behalf of State agencies responsible for licensing and regulating medical marijuana. This measure also would allow the BOE and counties to charge administrative costs in carrying out the collection and administration of these payments. This measure is pending a hearing in the Senate Appropriations Committee.

The Treasurer and Tax Collector (TTC) indicates that implementation of AB 2149 would result in additional workload for the increased cash collection, processing and depositing of taxes remitted by businesses operating in cities located in the County that have adopted ordinances to allow and regulate commercial medical marijuana. The Department also notes concerns regarding the need for heightened security. TTC is continuing to work with the California Association of County Treasurers and Tax Collectors and other jurisdictions on best practices and process alternatives.

**AB 2243 (Wood)**, which as amended on June 29, 2016, would: 1) impose a State excise tax on medical marijuana cultivation at various tax rates for small or mid-size cultivators; 2) require the BOE to issue a permit to every retailer with the authorization to suspend or revoke the permit as appropriate; 3) establish the Cannabis Production and Environment Mitigation Fund in which all taxes, interest, penalties, and other amounts collected and paid to the BOE shall be deposited; and 4) prescribe an allocation methodology for the revenue collected, among other provisions. AB 2243 is an urgency bill that would become effective immediately upon enactment if the Adult Use of Marijuana Act (AUMA), a statewide initiative to legalize recreational marijuana, fails passage on the November 8, 2016 ballot. If AUMA is enacted, its provisions will override any conflict with existing statutes. This measure is scheduled to be heard by the Senate Appropriations Committee on August 1, 2016.

**AB 2300 (Wood)**, which as amended on April 28, 2016, would clarify that a qualified patient or a medical marijuana cardholder is not authorized to smoke medical marijuana in any location where smoking is prohibited by law or by a landlord. This measure is currently pending on the Senate Floor.

**AB 2385 (Jones-Sawyer)**, which as amended on June 22, 2016, would clarify that a local license is not required for medical marijuana businesses, operating in the City of Los Angeles, that were in compliance with the City's existing local medical marijuana ordinance, as established by Measure D and approved by City voters in 2013. This measure is scheduled to be heard by the Senate Appropriations Committee on August 1, 2016.

**AB 2516 (Wood)**, which as amended on June 22, 2016, would add a specialty cottage cultivator license for medical marijuana cultivation that uses a combination of natural and supplemental artificial lighting to the list of State cultivation licenses available. This measure is scheduled to be heard by the Senate Appropriations Committee on August 1, 2016.

**AB 2679 (Cooley)**, which as amended on March 18, 2016, would require State marijuana licensing authorities to report annually on the number of appeals for license denials, disciplinary actions, and complaints. Additionally, the bill would require the University of California's California Marijuana Research Program to develop and conduct studies to ascertain the effect of marijuana on motor skills. This measure is scheduled to be heard by the Senate Appropriations Committee on August 1, 2016.

**SB 1036 (Hernandez)**, which as introduced on February 12, 2016, would broaden the existing ban of synthetic cannabinoid compounds by prohibiting any chemical equivalent, which would be defined as a controlled substance analog, to prevent street chemists from circumventing drug laws by synthesizing drugs. This measure is currently pending on the Assembly Floor.

The Department of Public Health (DPH) reports that synthetic cannabinoids, which are artificially manufactured chemicals that are applied onto plant materials to provide the same psychoactive effect as marijuana, are used often by young people. Current law bans specific chemical formulations of synthetic cannabinoid compounds. However, DPH advises that minor changes to the chemical composition of these substances can create almost identical but new controlled substance analogs that are not covered by existing law, allowing them to be sold on the market until the law can be amended. DPH states that SB 1036 increases the criminalization of synthetic cannabinoid and controlled substance analogs which are unregulated and can be more potent than marijuana.

**There is no Board-approved policy related to medical marijuana. Therefore, support or opposition for any of these measures is a matter for Board policy consideration.**

This office is working with affected departments to determine the potential impact of these measures.

We will continue to keep you advised.

SAH:JJ:MR  
OR:PC:TOF:ma

c: All Department Heads  
Legislative Strategist  
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